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In the Supreme Court OF THE United States

OCTOBER TERM, 1934

No. 465

ALASKA PACKERS ASSOCIATION (a corporation),
Appellant,

vs.

INDUSTRIAL ACCIDENT COMMISSION OF THE STATE OF CALIFORNIA and JUAN PALMA,
Appellees.

BRIEF FOR APPELLANT.

Appeal from the Supreme Court of the State of California.

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BRIEF FOR APPELLANT.

Appeal from the Supreme Court of the State of California.

OPINIONS BELOW.

The opinion of the Supreme Court of California (R. 66) is reported in 88 Cal. Dec. 75,* 34 P. (2d) 716. The findings and award of the Industrial Accident Commission of the State of California (R. p. 64) are unreported.

*The reference is to "California Decisions", the unofficial advance publication of the opinions of the Supreme Court of California. The case has not yet appeared in the official reports.

JURISDICTION.

The required statement as to jurisdiction in support of the appeal has been filed. Probable jurisdiction was noted on November 5, 1934.

QUESTION PRESENTED.

Appellee California Industrial Accident Commission awarded appellee Palma compensation under the California Workmen's Compensation Act for an injury sustained in Alaska. The Supreme Court of California affirmed the award. The question on the appeal to this court is whether the award is contrary to the Constitution and laws of the United States.

Material circumstances are: (1) the injury occurred in Alaska; (2) both employer and employee, by a written contract of employment, had accepted the Workmen's Compensation Act of that territory and agreed that it should be controlling; (3) the contract of employment was made on board ship in San Francisco Bay; (4) it provided for work to be done only in Alaska; (5) Palma was a Mexican citizen and a nonresident of California; (6) the Alaska statute is optional, but had been accepted by the parties in the employment contract; (7) the California statute is compulsory; (8) both statutes provide that the rights and remedies accorded by them, respectively, are exclusive; (9) the employment contract was similar to fifty others made at the same time for the hiring of laborers for seasonal work in Alaska exclusively; (10) Palma was to be transported by appellant to Alaska and back, and was to be paid upon his return to San Francisco.

STATUTES INVOLVED.

The pertinent provisions of the California Workmen's Compensation, Insurance and Safety Act, chap. 586, Cal. Stats. 1917, p. 831, are sections 27(a) and (b) and section 58. These sections are appended (Appendix, p. i), together with sections 6, 7, 27, 29, 53, 57, 60 and 67, which have a bearing upon the decision in this case.

The pertinent provisions of the Alaska Workmen's Compensation Act are sections 1, 10, 18, 22, 24, 25, 28, 31, 32, 35, 36 and 41 (Session Laws, 1929, chap. 25, p. 46). These sections are appended (Appendix, p. viii).

STATEMENT.

Most of the material facts were noted in stating the question involved. The following additional statement is from the opinion of the Supreme Court of California:

> "On May 13, 1932, Juan Palma, a nonresident alien, entered into a contract of employment on board the steamer Chirikof in the harbor of San Francisco, with the Quong Ham Wah Co., agent for the petitioner, the Alaska Packers Association, by which he agreed to work for the petitioner during the salmon canning season at or about Kvichak in the territory of Alaska. The Alaska Packers Association agreed to transport Palma to Alaska and back to San Francisco at the close of the season. He was to be paid on his return to San Francisco, at a monthly rate, less any advances made. Section 11 of the contract, signed by Palma, and some fifty other workers, on board the Chirikof, reads as follows:
>
> 'Section 11. As the only labor contemplated by this contract is to be performed in the Territory of

Alaska, and as the Contractor has elected to be bound by the provisions of the Alaska Workmen's Compensation Act, Chapter 25 of the laws of Alaska, 1929, pages 46 to 79 and amendments thereto, the parties of the second part hereby agree, as an incident of this contract of employment, to accept and be bound by the provisions of the said Workmen's Compensation Act of Alaska for any and all injuries arising out of and in the course of their employment, and further agree to accept as their exclusive remedy for any and all industrial injuries, the provisions of the said Workmen's Compensation Act of Alaska.'

Palma was treated on two occasions and was finally operated on in petitioner's hospital in Kvichak, having left work on June 3, 1932. He presented no claim for compensation in Alaska, but received his regular wages until August 11. Upon his return to San Francisco, and on August 18, 1932, he made application to the California Industrial Accident Commission for an adjustment of his claim on the ground that his disability had resulted from an injury arising out of and in the course of the employment and had been caused by an empty box falling against his stomach."

Prior to the injury all steps had been taken by the parties to comply with and come under the Alaska statute (R. 67). The appellant set up the Alaska statute in defense to Palma's proceedings under the California statute (R. 58). The California Industrial Accident Commission overruled this defense and made an award in Palma's favor (R. 64). On writ of review the California Supreme Court affirmed the award (R. 66).

SPECIFICATION OF ERRORS.

The Supreme Court of California erred as follows:

1. In affirming the award of the California Industrial Accident Commission and in permitting any award against appellant for the injury involved in this case under the Workmen's Compensation Act of the State of California;

2. In holding that such award did not deny full faith and credit to the Workmen's Compensation Act of the Territory of Alaska;

3. In holding that said award did not deprive appellant of property without due process of law;

4. In holding that said award was within the jurisdiction of the State of California and did not infringe upon the exclusive powers of the United States over the Territory of Alaska;

5. In holding that the status of employer and employee as between appellant and appellee Palma was created under or was subject to the laws of the State of California.

SUMMARY OF ARGUMENT.

We contend that the award in this case and the construction of the California statute under which that award was sustained by the Supreme Court of California are contrary to the Constitution and statutes of the United States in the following particulars:

(A) *Full faith and credit*—The adoption by Alaska of its Workmen's Compensation Act (Session Laws 1929,

chap. 25; Appendix pp. viii-xii) applicable to industrial injuries in Alaska was within the power of the territorial legislature (Organic Act, sec. 9, 37 Stats. 514; U. S. C. 48:77; *North Alaska Salmon Co. v. Pillsbury,* 174 Cal. 1, 5, 162 Pac. 93). The Alaska act is optional, but had been accepted by the parties in the employment contract (R. 66), and there is no question that this employment was within its terms. Section 905 of the Revised Statutes of the United States (U. S. C. 28:687) requires full faith and credit to be accorded to territorial statutes (*Atchison etc. R. Co. v. Sowers,* 213 U. S. 55, 64-65).

The Alaska Compensation Act provides exclusive rights and remedies (sec. 10, Appendix, p. viii); so does the California statute (sec. 6, Appendix, p. i). There cannot be two *exclusive* jurisdictions over the same subject matter. Therefore, if the California award was a valid exercise of an exclusive jurisdiction, as it purported to be, it altogether precludes proceedings under the Alaska statute. The statute of Alaska—the jurisdiction in which all the work was done and where the injury occurred—is unquestionably applicable to the case, but it can never be applied unless it is accorded full faith and credit in California, or unless the California award can be disregarded and the appellant subjected in Alaska to another recovery for the same injury. Such double recovery would be contrary to the requirements of due process and would invalidate one or the other of the two statutes on that ground. Consequently, one or the other must give way in any view of the case, and the circumstances of this case require the California courts to give effect to the Alaska statute and to the defense predicated on it.

While we know of no case in which like facts have been presented, we submit that the principles stated in *Bradford Electric Co. v. Clapper,* 286 U. S. 145, and in *Ohio v. Chattanooga Boiler Co.,* 289 U. S. 439, as applied to the facts of this case, require full faith and credit for the Alaska statute.

(B) *Due process*—The California statute is compulsory (sec. 27a, Appendix, p. ii). It requires an employer to insure payment of compensation to his employees or to qualify as a self-insurer by posting bonds upon which he must pay premiums (sec. 29, Appendix, p. iii). Under the decision in this case appellant cannot make an employment contract in California for seasonal work in Alaska exclusively without assuming these and other burdens. We submit that the state has no reasonable basis for extending and no power to extend its *compulsory* (as distinguished from elective) workmen's compensation act to extraterritorial injuries arising from such employment (See *Murray v. Joe Gerrick & Co.,* 291 U. S. 315; *Ford, Bacon & Davis v. Volentine* (5th C. C. A.), 64 F. (2d) 800, and cases cited in the body of the argument).

Still further, in sustaining the award, the Supreme Court of California invalidated the contract of the parties that the Alaska statute should govern the injury. Under the due process clause, freedom of contract can be abridged by state statutes only within reasonable limits (*Truax v. Raich,* 239 U. S. 33). Here the employer was subject to liability in Alaska for industrial injuries, and the employee had an adequate remedy there. We submit that it was unreasonable to invalidate the agreement of the parties that the Alaska laws should exclusively control

their rights and obligations. The fact that the agreement was made in California is not enough to justify the courts of that state in invalidating it (*Smith v. Heine Safety Boiler Co.*, 224 N. Y. 9, 119 N. E. 878; see also *New York Life Ins. Co. v. Head*, 234 U. S. 149).

(C) *Federal control of territories*—We believe for reasons already given that the *compulsory* workmen's compensation act of California could not be applied to an injury in another state under the circumstances shown by this record. Still less can it be applied to an injury in a territory over which the United States has exclusive jurisdiction (Constitution, Art. IV, sec. 3, clause 2; see also *Murray v. Joe Gerrick & Co.*, 291 U. S. 315, supra).

ARGUMENT.

THE AWARD UNDER THE CALIFORNIA WORKMEN'S COMPENSATION ACT AND THE REFUSAL TO RECOGNIZE AS A DEFENSE IN THE CALIFORNIA PROCEEDINGS THE ALASKA STATUTE AND THE AGREEMENT OF THE PARTIES THAT IT SHOULD BE CONTROLLING, ARE CONTRARY TO THE CONSTITUTION AND STATUTES OF THE UNITED STATES.

A. Full faith and credit.

In *Bradford Electric Co. v. Clapper*, 286 U. S. 145, the employer's business was in Vermont with lines extending into New Hampshire. Clapper, a resident of Vermont, was employed in Vermont as a lineman for emergency service in either state. He was killed in New Hampshire. He left no dependents within the meaning of the Vermont workmen's compensation law. His administratrix brought suit in New Hampshire claiming that under the law of that

state she was entitled to hold the company as for a tort liability. The employer's defense was that the action was barred by the provisions of the Workmen's Compensation Act of Vermont, that that act had been accepted by both employer and employee as a term of the employment contract, and was entitled to full faith and credit. This court sustained the defense.

We believe that the *Bradford* case strongly supports appellant's contentions in the present case. It holds that an exclusive workmen's compensation act—the Vermont statute corresponding in that respect to the Alaska statute involved here—is entitled to full faith and credit in an action brought in another state. It holds that the agreement of the parties to abide by such a statute is, under appropriate conditions, valid and binding.

It is true that the contract in the *Bradford* case provided for the application of the statute of Vermont, that is to say, the statute of the state in which it was made, whereas in this case the contract provided for the application of the statute of Alaska, the territory in which the work was to be performed. The considerations supporting the contract of the parties and the Alaska law in the present case, however, are just as strong as those supporting the contract of the parties and the Vermont statute in the *Bradford* case.

In the *Bradford* case, the work was to be done principally in Vermont; in this case, the work was to be done exclusively in Alaska. Again, one of the principal grounds of decision in the *Bradford* case—a fact emphasized by this court in *Ohio v. Chattanooga Boiler Co.*, 289 U. S. 439, 442-443—was that:

"'It clearly was the purpose of the Vermont Act to preclude any recovery by proceedings brought in another State for injuries received in the course of a Vermont employment'" (286 U. S. 153).

A like purpose is just as clearly expressed in the Alaska statute. Section 10 of that statute provides:

"The right to compensation for an injury and the remedy therefor granted by this Act *shall be in lieu of all rights and remedies as to such injury now existing either at common law or otherwise, and no rights or remedies, except those provided for by this Act, shall accrue* to employees entitled to compensation under this Act while it is in effect" (Appendix p. viii) (all italics ours throughout the brief unless otherwise indicated).

Section 28 of the Alaska statute further provides:

"No agreement by an employee to waive his or her rights to compensation under this Act shall be valid * * * and no employer or employee shall exempt himself, herself or itself, except in the manner herein elsewhere provided, from the burden or waive the benefits of this Act, by any contract, agreement, rule, regulation or device, and any such contract, agreement, rule, regulation or device shall be absolutely void" (Appendix p. xi).

Section 25 provides:

"No action for the recovery of compensation hereunder shall in any case be brought in any court outside of the Territory of Alaska, except in cases where it is not possible to obtain service of summons upon the defendant in said Territory, * * *" (Appendix, p. x),

and section 31 provides that where the employer has elected to pay compensation according to the terms of the Alaska Act, as was done in this case, "the employer shall be relieved from liability for a recovery of damages *or other compensation* for such personal injuries * * *" (Appendix, p. xi).

It was not disputed in the California proceeding (and authorities for these propositions have been cited in the summary) that the Alaska statute is valid; that the parties had taken all necessary steps to come under it; that it would have applied had Palma proceeded in Alaska; that section 905 of the Revised Statutes (U. S. C. 28:687) requires that the Alaska law be accorded full faith and credit wherever the principles of full faith and credit are applicable. The Supreme Court of California, however, held these principles inapplicable. One of its reasons was (R. 73):

> "The jurisdiction of *both* Alaska and California may be sustained, the one upon the basis of control of the status at the time of the injury, the other upon the basis of control at its inception."

This statement does not take account of the facts. It would be possible to sustain two *concurrent* jurisdictions on the basis suggested, but here both the Alaska and California statutes provide for an *exclusive* jurisdiction. The Alaska statute was quoted above; the applicable sections of the California statute are 6 and 27, printed in the appendix (pp. i, ii). Not only does each statute purport to be exclusive, but it also provides that liability under it

cannot be avoided (Alaska statute, sec. 28, Appendix p. xi; California statute, sec. 27, Appendix p. ii).*

To speak of sustaining two such *exclusive* jurisdictions over the same subject matter is a contradiction in terms. We mentioned in the summary the consequences which must follow if the present award, made in the purported exercise of an exclusive jurisdiction, is sustained. In that event appellant is either subject to a further recovery in Alaska, which certainly should not be, or else no proceedings can be maintained under the Alaska statute. In the

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*A brief reference should be here made to other statutory provisions relied on by the Supreme Court of California. Section 58 of the California statute by its terms applies to injuries outside the state "where the injured employee *is a resident of this state* at the time of the injury and the contract of hire was made in this state" (Appendix p. vi). In *Quong Ham Wah Co. v. Industrial Accident Commission*, 184 Cal. 26, 192 Pac. 1021 (writ of error dismissed, 255 U. S. 445), the court held that the federal constitution extended the benefit of the statute also to citizens of other states (see discussion of this case in the opinion in the present case, R. 68-70). On the basis of section 58, as thus construed, plus section 27 (a) (Appendix p. ii) providing that no contract can relieve the employer of liability for compensation, the California Supreme Court in the present case held that the contract that the Alaska law should control was invalid, and that appellant was liable under the California statute.

It should be noted that Alaska had no compensation act at the time involved in the *Quong Ham Wah* case, so that that case is inapplicable here.

It may be further noted parenthetically that the court in this case does not accurately state the effect of the *Quong Ham Wah Co.* case. That case did not hold that the federal constitution extended the benefit of the act to nonresidents generally, but to those nonresidents *who were within the privileges and immunities clause of the federal constitution*, that is to say, to nonresidents of California who were citizens of other states (*Quong Ham Wah Co. v. Industrial Accident Commission*, 184 Cal. 26, 192 Pac. 1021; see particularly 184 Cal. 34, and the concurring opinion of Justice Shaw in 184 Cal. 48). Consequently, under the *Quong Ham Wah Co.* case, the express provision of the California statute requiring the claimant for an extraterritorial injury to be a resident of the state is valid as to a nonresident alien, and the court in that case so stated (184 Cal. 34, 38). In the case at bar, Palma was a Mexican citizen, domiciled in Jalisco, Mexico (R. 43). The Supreme Court of California in the present case mentions the fact that Palma was a nonresident alien (R. 66), but does not, discuss the materiality of this fact under the California statute. It assumes that all nonresidents are within the protection of that statute (R. 69), an assumption, which, so far as nonresident aliens are concerned, is contrary to what was said in the *Quong Ham Wah Co.* case. We intend so to argue to the Supreme Court of California if another case like the present arises. Since this question has to do with the meaning of the California statute, we do not argue it to this court.

latter event there is the anomalous condition of an Alaska statute admittedly valid and admittedly applicable, but which nevertheless cannot be applied because an exclusive jurisdiction has already been exercised in California.

A proceeding could have been maintained in Alaska to enjoin Palma from proceeding elsewhere (*Bradford Electric Co. v. Clapper*, 286 U. S. 145, 159), and an injunction decree in such suit would have obviously been entitled to full faith and credit. There is every reason for according like faith and credit to the defense here based on the Alaska statute.

The California Supreme Court said that it is not ordinarily a denial of full faith and credit to refuse to apply the law of another jurisdiction on conflict principles, and that *a fortiori* this is so if that law cannot, by its own terms, be administered by the forum in which it is pleaded (R. 76).

As to this statement, it is evident that the California court did not apply conflict principles in the case at bar because it disregarded the express contract of the parties that Alaska should control. It is an elementary principle in conflict of laws that the contract is governed by the laws with a view to which the parties make it (*Wayman v. Southard*, 10 Wheat. 1, 48). The only significance of the place of making or the place of performance, from the standpoint of conflict of laws, is to determine the intention of the parties as to what law should govern, and these considerations are immaterial when the matter is covered by express contract.

As to the statement that the Alaska law cannot be administered by the forum in which it was here pleaded

(R. 76), it is true that the California Industrial Accident Commission, an administrative body, cannot administer the Alaska act because the Alaska statute provides for the assessment of the statutory compensation in an action in a court of general jurisdiction. But the fact that the Commission is not competent to give the relief prescribed by the Alaska statute, does not, we submit, justify the denial of the validity and effect of the Alaska statute when pleaded as a defense to proceedings under the California act. Neither is it any excuse or warrant for the failure in this case to recognize Palma's right against appellant as a foreign right, and as such controlled by the rules of its origin (*Cuba R. R. Co. v. Crosby*, 222 U. S. 473; *Slater v. Mexican National R. R.*, 194 U. S. 120); nor does it justify disregarding the limitations upon appellant's liability provided by the Alaska statute (*Atchison, T. & S. F. Ry. v. Sowers*, 213 U. S. 55; *Tennessee Coal, Iron & R. Co. v. George*, 233 U. S. 354).

It cannot be urged that the provisions of the Alaska statute which forbid resorting to common law *or any other form of compensation proceeding against the employer* for injuries incurred in the course of an Alaskan employment is contrary to the public policy of California. For similar injuries in California, the California statutes have identical provisions.

If California, however, should decline to enforce Palma's foreign claim, in so doing it would merely deny him a remedy, leaving unimpaired his substantial right, with complete freedom to enforce it elsewhere. But to refuse to give effect to the substantive defenses under the applicable law of the Territory of Alaska, as under the

circumstances here presented, subjects the defendant to irremedial liability (*Bradford Electric Co. v. Clapper*, 286 U. S. 145, 160).

It may be urged that appellant, having employees at work in the State of California and having accepted a permit to self-insure under the California Workmen's Compensation, Insurance and Safety Act, is in some way bound to pay compensation as provided by the California act for injuries in the course of its Alaskan operations.

The *Bradford Electric* case is, we believe, a complete answer to this point, if made (286 U. S. 145, 162).

The Supreme Court of California stressed the fact that the contract of employment was made in California. We have, however, shown that unless the Alaska statute is given effect in California, it is denied operation altogether as a practical matter. The California statute, in such event, has been extended into the jurisdiction of Alaska, has excluded the operation of the Alaska statute and invalidated a contract between the parties which related to Alaska work and which was unquestionably valid under the Alaska law. This is a clear denial of full faith and credit (*New York Life Ins. Co. v. Head*, 234 U. S. 149).

Moreover, the California court cited the fact that the employment was a California contract in order to show that that state had control of the employment in its inception. The contract, however, was made on shipboard in San Francisco Bay (R. 66) and while this is in California geographically, it is not within the state from the standpoint of legislative jurisdiction over industrial injuries (*Spencer Kellogg & Sons, Inc. v. Hicks*, 285 U. S. 502, 514). Furthermore, the contract contemplated that

the employer should transport Palma to Alaska for his work (R. 51), and it further provided that he was to remain aboard the boat from the signing of the contract until his arrival in Alaska (R. 51). If he had sustained an injury on the ship during the voyage and prior to the commencement of the work for which he was engaged, that injury would not have been subject to the Workmen's Compensation Act of California or to the Workmen's Compensation Act of Alaska, but to the general maritime law of the United States (*Industrial Accident Commission of the State of California v. James Rolph Co.*, 264 U. S. 219; *Knickerbocker Ice Co. v. Stewart*, 253 U. S. 149). Clearly, therefore, the State of California had no such control over the employment contract in its inception as would justify a denial of full faith and credit to the laws of Alaska under the facts of this case.

Should the court regard the language of the Supreme Court of California (R. 73) that the jurisdiction of both Alaska and California may be sustained as, in substance, a construction of section 6 (a) (Appendix, p. i) that the California statute does not offer an exclusive remedy where the employee has a right to compensation under the act in force at the place of injury, then, we submit, the case is controlled by the principles of *Ohio v. Chattanooga Boiler Co.*, 289 U. S. 439. In this event there could be no possibility of recognizing the California Act, as *Ohio v. Chattanooga Boiler Co.* held that a statute not providing an exclusive remedy must yield to the statute in force at the place of injury which does provide an exclusive remedy.

B. Due process.

The essence of our argument under the "due process" clause is, first, that the California statute, as construed in the present case, places serious burdens on appellant with respect to matters beyond the jurisdiction of the state, and second, that in so doing it unreasonably strikes down the fair contract of the parties that the Alaska law should control.

The California statute is a *compulsory* statute. Under it appellant is obliged to provide compensation insurance for its employees, or else to qualify as a self-insurer (sec. 29, Appendix p. iii), which involves payment of premiums on its self-insurer's bonds. Under the decision in the present case appellant cannot make a contract in California for seasonal employment in an exclusively Alaskan work without assuming these burdens as to employees engaged for that Alaskan work—this notwithstanding the fact that appellant must meet the requirements of the Alaska law as to these same employees. It is immaterial in this connection that the Alaska compensation act is optional. The parties had accepted it prior to the injury; furthermore, appellant would have been under a more onerous liability if it had not complied with and come under the statute (sec. 32 Alaska Session Laws, 1929, p. 73; *McManus v. Red Salmon Canning Co.*, 37 Cal. App. 133, 173 Pac. 1112). The point is that a remedy for the employee and liability on appellant would exist in Alaska in any event, so that the California statute, if applicable, imposes a double burden on appellant with respect to the Alaskan employment.

It is also self-evident that the application of the California act to injuries in Alaska is more burdensome to

the employer than its application to injuries in California because of the difficulty of defense. The facts of this case are a good illustration. Palma accepted medical treatment in Alaska from appellant without any claim or intimation that he had been injured while at work (R. 67). After returning to California he made the claim which resulted in this award. Manifestly the just and proper defense of such a claim is difficult and in many cases impossible at a great distance from the place of injury (*Davis v. Farmers' Cooperative Co.*, 262 U. S. 312, 315).

These burdens are serious, and it is obvious that if the State of California imposes them without jurisdiction or by refusing to give effect to a valid contract, it thereby takes appellant's property without due process of law.

Referring first to our contention that the Supreme Court of California erred in holding that a state has power to give an extraterritorial effect to its *compulsory* statute merely because the employment contract was made there (R. 69):

In *Murray v. Joe Gerrick & Co.*, 291 U. S. 315, the widow of a deceased employee injured in the Puget Sound Navy Yard at Bremerton, Washington, believing that the state compensation act applied to employment in the navy yard, the contract of hire having been made in Seattle and the work commencing each day in Seattle, brought an action under the provisions of the Washington Compensation Act (see. R. 4, 13 and 25, No. 308, October Term, 1933; 20 P. (2d) 591; 172 Wash. 365).

This court held that the Washington Compensation Act did not apply to the work which the decedent was

doing and that, therefore, no right could accrue to the widow under that act, saying (291 U. S. 318):

> "The State Supreme Court held that the compensation act does not apply to territory beyond the authority of the state legislature. But it also held that act could not have any force in the Navy Yard, since it was adopted many years after the cession of jurisdiction by the State and the consequent acquisition of the tract by the United States. In this the court was clearly right."

The Washington statute is a compulsory statute. We therefore believe that the ruling on the above phase of the *Gerrick* case is a direct authority for the proposition that a compulsory act cannot be applied to an extraterritorial injury merely because the employment contract was made within the state.

Compulsory acts of Ohio and North Dakota were involved in the cases of *Industrial Commission of Ohio v. Gardinio,* 119 Ohio St. 539, 164 N. E. 758, *Altman v. North Dakota Workmen's Compensation Bureau,* 50 North Dakota 215, 195 N. W. 287, and *Johnson v. Industrial Accident Commission of Ohio,* 45 Ohio App. 125, 186 N. E. 509. In those cases workmen injured in other states sought recovery under the compensation acts of North Dakota and Ohio, respectively, and argued that the jurisdiction was supported by the fact that the contract of employment had been made in those states. In each case, recovery was denied, notwithstanding that both of the Ohio and North Dakota statutes contained provisions making them applicable to injuries, "wheresoever such injuries have occurred" (164 N. E. 758; 195 N. W. 291). The decisions were put, broadly speaking, on the ground that the fore-

going express provisions of the statutes were not intended to include injuries outside of the state except in cases where the sojourn outside the state was incidental to a principal employment within the state. The lack of power of the states to extend compulsory statutes to outside injuries in an outside employment is one of the reasons given for this conclusion, so that the cases are authorities for our contention here.

New York too has a compulsory statute. In the often cited case of *Post v. Burger & Gohlke,* 216 N. Y. 544, 111 N. E. 351, this statute was held applicable to injuries in New Jersey. In that case, however, the principal employment of the injured workman was in New York. That this fact was the basis of the decision—not the mere fact that the contract of employment was made in the state—was made clear in *Smith v. Heine Safety Boiler Co.,* 119 N. E. 878, 224 N. Y. 9. The court in that case said (p. 878):

> "The argument is that liability attaches under our statute because the contract of employment was made in our state. But that is not enough. * * * The Workmen's Compensation Act involves an exercise of the police power. Mountain Timber Co. v. Washington, 243 U. S. 219, 238, 37 Sup. Ct. 260, 61 L. Ed. 685, Ann. Cas. 1917D, 642. It does not attempt to regulate the duty of foreign employers in the conduct of their business within foreign jurisdictions.
>
> Nothing to the contrary was held in Matter of Post v. Burger & Gohlke, 216 N. Y. 544, 111 N. E. 351, Ann. Cas. 1916B, 158. There the hazardous business was conducted in New York. The decision was that a workman employed in that business was under the protection of the New York act, though injured in New Jersey."

In the *Heine Safety Boiler* case the employer had moved his plant from the state before the passage of the compensation act and at the time of the injury had only a sales office there with which the employment of the injured employee had no connection. The court held the New York act inapplicable notwithstanding that the contract was made in that state.

In the case of *Perlis v. Lederer,* 188 App. Div. 425, 178 N. Y. S. 449, the New York Supreme Court, citing the foregoing cases, held that it was beyond the police power of the state to make the employer liable, merely because the contract was made within the state, for injuries sustained outside of the state.

> "The recent case of Matter of Smith v. Heine Boiler Co., 224 N. Y. 9, 121 N. E. 878, Ann. Cas. 1918D, 316, puts the matter clearly, and there is no doubt that a contract made within the state of New York for services to be performed wholly in a sister state is without the police power of the state of New York, and does not give a right to compensation under our Workmen's Compensation Law (Consol. Laws, c. 67)" (178 N. Y. S. 449).

We also mention *Ford, Bacon & Davis v. Volentine* (5th C. C. A.), 64 F. (2d) 800. That case involved an elective act so that the considerations mentioned by the court apply much more strongly to the present case where a *compulsory* act is involved. In this same connection we mention the case of *American Mutual Liability Ins. Co. v. McCaffrey* (10th C. C. A.), 37 F. (2d) 870.

As further showing that the compulsory California statute should not be permitted to extend to injuries in

Alaska, we point out that liability under such a statute is not contractual in any true sense (*Smith v. Heine Safety Boiler Co.*, 224 N. Y. 9, 119 N. E. 878), but is an obligation in the nature of a tax (*Mountain Timber Co. v. Washington*, 243 U. S. 219, 240; see also dissenting opinion of Justice Brandeis in *New York Central R. Co. v. Winfield*, 244 U. S. 147, 167). It is settled that a state cannot tax property beyond its borders (*Frick v. Pennsylvania*, 268 U. S. 473), and that principle, we believe, is analogous here.

We come now to the decision of the Supreme Court of California that the contract between employer and employee for application of the Alaska statute was invalid. The Fourteenth Amendment guarantees individual freedom of contract against unreasonable limitations by the states (*Allgeyer v. Louisiana*, 165 U. S. 578, 591; *Liberty Warehouse Company v. Burley Tobacco Growers*, 276 U. S. 71, 97). It forbids the states to extend their statutes into other jurisdictions so as to impair the obligations of contracts valid where they are to be performed (see *New York Life Ins. Co. v. Head*, 234 U. S. 149, 161-162).

Section 27 (a) of the California compensation statute provides that no contract shall exempt an employer from liability for compensation as fixed by the act (Appendix p. ii), and it was under this provision that the California court held the present contract to be invalid. We, of course, do not dispute the validity of the provision as applied to employments in California enterprises, but there is no just reason for applying it in this case. The present contract does not cut off the employee's remedy,

but specifically recognizes and provides for the remedy accorded by the law of Alaska. No contention has been made that this remedy is not just and adequate. Manifestly, too, the contract itself was reasonable in providing for application of the law of the place of the contemplated work, and Palma, having accepted it (R. 27-28, 49), should not be permitted to repudiate it at pleasure.

It is obvious that the constitutional objections, based on the due process clause, to the invalidation of this contract by a California statute, are not met by the fact that the contract was made in the State of California. A further fact, however, was mentioned by the California court, namely, that "such contracts as the present one, which hire itinerant labor in large groups to be transported out of the state for seasonal work and returned to this state at the end of the season, constitute a special class of employment contracts in which the state of hiring has an interest at least as substantial as that of the state in which the temporary and seasonal work is to be performed" (R. 75).

The only reason suggested by the Supreme Court of California as to why the circumstances of seasonal employment, etc., mentioned in the above quotation from its opinion, made a difference, was that the employee might find it difficult to enforce his remedy outside of California —"To leave the applicant to his remedy in Alaska in such a case would create a great hardship" (R. 75). We submit that the supposed difficulty of an individual employee in enforcing his rights under a valid Alaska statute is no reason for refusing to recognize that statute

as a defense to a California proceeding. No claim is made that the Alaska statute does not provide a fair remedy to the employee. It is unquestionable that the passage of the statute was within the lawful powers of the territory. Manifestly then, it should not be struck down because individual claimants find it more convenient to seek another remedy.

We have already noted the employer's difficulty in making an adequate defense in California to a claim founded on an Alaska injury (R. 4). This difficulty is greatly increased by the very circumstances cited by the Supreme Court of California as reasons for applying the California statute to cases where itinerant laborers are employed in groups for seasonal Alaska work (R. 75). These groups leave Alaska, return to California, and scatter. Where a claim is thereafter made in California, as it was in this case, without the least previous intimation that an injury had occurred in Alaska (R. 87), the evidence concerning the claim may be altogether unavailable. The nature of the employment therefore tends to uphold, not the applicability of the California statute, but the applicability of the Alaska statute and the contract of the parties that that statute should apply.

It was suggested as a further reason for sustaining the California statute that that state has a social interest in persons employed within its borders because of the social duty to care for persons sustaining industrial injuries, unless they are covered by adequate workmen's compensation (R. 71-72). Such an argument has no force in this particular case where Palma is a nonresident alien, and

there is no claim that he has any dependents in California (see *Bradford Electric Co. v. Clapper,* 286 U. S. 145, 162). Further the suggested argument has no force if the employee has an adequate remedy at the place of injury such as Palma has under the Alaska law. Still further, the argument is valid only (to quote the language of a concurring justice in *Quong Ham Wah Co. v. Industrial Acc. Com.,* 184 Cal. 26 (at p. 46)):

> "if the primary object of the law were to prevent injured employees or their families from becoming public charges. But this is not its purpose except in a very remote degree, and since it is not, the argument entirely fails."

The Supreme Court of California cited section 434 of tentative draft No. 4 of the Restatement on Conflict of Laws (R. 74). We submit that this tentative statement is not an authority here; it does not distinguish between elective and compulsory statutes; it takes no account of the situation where two jurisdictions each claim exclusive powers; it takes no account of such a contract between the parties as existed in this case or of the other circumstances here presented.

C. Federal control of territories.

The considerations already mentioned show, we submit, that if, under the present circumstances, two states were involved the Workmen's Compensation Act of California would not be applicable to an injury in the second state. The same considerations apply to the injury in this case which occurred in the Territory of Alaska, and there is this further reason for the same conclusion, namely, that

Article IV, section 3, clause 2 of the Constitution gives the United States exclusive jurisdiction over the territories (*Murray v. Joe Gerrick & Co.*, 291 U. S. 315; see also, *Farmers' Bank v. Minnesota*, 232 U. S. 516).

CONCLUSION.

We have made no effort in this brief to discuss all the cases which have considered the application of workmen's compensation acts to extraterritorial injuries. Many of these cases are collected in the note to the opinion in *Bradford Electric Co. v. Clapper*, 286 U. S. 145, 156. We have examined all the cases cited in this note. We believe that no decided case has permitted the application of a compulsory act to an outside injury under circumstances like those of the case at bar. In the cases where states have applied their compensation acts to such injuries it has usually been, as is pointed out in the body of the brief, on the ground that the principal employment was in the state whose act was applied, and the work in which the injury occurred was merely incident to that principal employment. Other cases have enforced liability under compensation acts against the employer's insurance carrier in favor of the employee or his dependents where the employer had insured the employee. No case that we know of has denied faith and credit to an exclusive statute of the jurisdiction of the injury, which was also the jurisdiction of the main employment, and the jurisdiction by whose laws the parties had contracted to abide.

We respectfully submit that the judgment of the Supreme Court of California should be reversed and the

cause remanded, with instructions to give effect to the defense based on the Alaska statute and the agreement of the parties and to annul the award.

Dated, San Francisco, California,
December 24, 1934.

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(Appendix Follows.)

Appendix

The provisions of the California Workmen's Compensation, Insurance and Safety Act, as amended, which have a bearing upon this case, are as follows:

"Sec. 6. (a) Liability for the compensation provided by this act, in lieu of any other liability whatsoever to any person, shall, without regard to negligence, exist against an employer for any injury sustained by his employees arising out of and in the course of the employment * * * in those cases where the following conditions of compensation concur:

(1) Where, at the time of the injury, both the employer and the employee are subject to the compensation provisions of this act.

(2) Where, at the time of the injury, the employee is performing service growing out of and incidental to his employment and is acting within the course of his employment.

(3) Where the injury is proximately caused by the employment, either with or without negligence, and is not caused by the intoxication of the injured employee, or is not intentionally self-inflicted."

"Sec. 7.§2 The term 'employer' * * * shall be construed to mean: * * * every person, firm, voluntary association, and private corporation, including any public service corporation, who has any person in service under any ap-

Definition of "Employer".

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§. Chapter 586, Laws of 1917, as amended by Chapter 471, Laws of 1919.
2. Chapter 165, Laws of 1929.

pointment or contract of hire, or apprenticeship, express or implied, oral or written, and the legal representative of any deceased employer.

* * * * * * *

Deering General Laws of California, 1931, Vol. Two, Act 4749, p. 2277.

Releases and compromises.

Sec. 27.*°3 (a) No contract, rule or regulation shall exempt the employer from liability for the compensation fixed by this act, but nothing in this act contained shall be construed as impairing the right of the parties interested to compromise, subject to the provisions herein contained, any liability which may be claimed to exist under this act on account of such injury or death, or as conferring upon the dependents of any injured employee any interest which such employee may not divert by such compromise or for which he, or his estate, shall, in the event of such compromise by him, be accountable to such dependents or any of them.

Requisites of valid release.

(b) The compensation herein provided shall be the measure of the responsibility which the employer has assumed for injuries or death that may occur to employees in his employment when subject to the provisions of this act, and no release of liability or compromise agreement shall be valid unless it provide for the payment of full compensation in accordance with the provisions of this act or unless it shall be approved by the commission.

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Deering, supra, p. 2296.

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*. Chapter 586, Laws of 1917.
°. Chapter 379, Laws of 1923.
3. Chapter 944, Laws of 1931.

Sec. 29.§#2,3,4 (a) Every employer as defined in section seven hereof, except the State and all political subdivisions or institutions thereof, shall secure the payment of compensation in one or more of the following ways: Employer's security.

1. By insuring and keeping insured against liability to pay compensation in one or more insurance carriers duly authorized to write compensation insurance in this State.

2. By securing from the commission a certificate of consent to self-insure, which may be given upon his furnishing proof satisfactory to the commission of ability to carry his own insurance and pay any compensation that may become due to his employees, * * *.

(b) If any employer shall fail so to secure the payment of compensation, any injured employee or his dependents may proceed against such employer by filing an application for compensation with the commission, and, in addition thereto, such injured employee or his dependents may bring an action at law against such employer for damages, the same as if this act did not apply, and shall be entitled in such action to the right to attach the property of the employer, at any time upon or after the institution of such action, in an amount to be fixed by the court, to secure the payment of any judgment which may ultimately be obtained. Such judgment shall include a reasonable attorney's fee to be fixed by the court. * * * Effect of failure to secure.

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§. Chapter 586, Laws of 1917, as amended by Chapter 471, Laws of 1919.
#. Chapter 300, Laws of 1925.
2. Chapter 254, Laws of 1929.
3. Chapter 945, Laws of 1931.
4. Chapter 379, Laws of 1933.

Failure to secure, a misdemeanor.

(c) Failure to secure the payment of compensation as hereinbefore provided shall constitute a misdemeanor, punishable by a fine of not more than five hundred dollars or by imprisonment for not more than six months or both. In case of the wilful failure by an employer to secure the payment of compensation as herein provided, the amount of compensation otherwise recoverable for injury or death as provided in this act shall be increased ten per cent, any of the provisions of this act as to maximum payments or otherwise to the contrary notwithstanding; provided, however, that said increase of award shall in no event exceed one thousand dollars. Failure of the employer to secure the payment of compensation as herein provided shall be prima facie evidence of wilfulness on his part.

Employer to furnish name of insurer.

(d) The commission may require any employer to furnish a written statement at any time showing the name of his insurance carrier or the manner in which the employer has complied with the provisions of this section. Failure of the employer for a period of ten days to furnish such written statement shall constitute presumptive evidence that such employer has failed or neglected in respect to the matters so required. In any prosecution under this section, the burden of proof shall be upon the defendant to show that he has secured the payment of compensation in one of the two ways set forth in paragraph (a) hereof.

* * * * * * *

Deering, supra, pp. 2298, 2299.

Sec. 53.§ (a) Every employer of labor, without any exceptions, and every insurance carrier, and every physician or surgeon who attends any injured employee, is hereby required to file with the commission, under such rules and regulations as the commission may from time to time make, a full and complete report of every injury to an employee arising out of or in the course of his employment and resulting in loss of life or injury to such person; provided, that such report shall not be required unless disability resulting from such injury lasts through the day of the injury or requires medical service other than ordinary first aid treatment. Where the injury results in death a report shall be made by the employer to the commission by telephone or telegraph forthwith. Such reports shall be furnished to the commission in such form and such detail as the commission shall from time to time prescribe, and shall make specific answers to all questions required by the commission under its rules and regulations. It shall be unlawful for any person, firm, corporation, agent or officer of a firm or corporation, to fail or refuse to comply with any of the provisions of this section, and any such person, firm, corporation, agent or officer of a firm or corporation, who fails or refuses to comply with the provisions of this section shall be guilty of a misdemeanor for each and every offense and upon conviction thereof shall be punishable by a fine of not less than ten dollars nor more than one hundred dollars.

Report of injury.

Failure to report.

* * * * * * *

Deering, supra, pp. 2307, 2308.

§. Chapter 586, Laws of 1917, as amended by Chapter 471, Laws of 1919.

Powers of commission as to procedure.

Sec. 57.* (a) The commission shall have full power and authority:

(1) To adopt reasonable and proper rules of practice and procedure.

(2) To regulate and provide the manner, and by whom, minors and incompetent persons shall appear and be represented before it.

(3) To appoint a trustee or guardian ad litem to appear for and represent any such minor or incompetent upon such terms and conditions as it may deem proper;

* * *

* * * * * * *

(6) To regulate and prescribe the nature and extent of the proofs and evidence.

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Deering, supra, pp. 2309, 2310.

Injuries without the State.

Sec. 58.* The commission shall have jurisdiction over all controversies arising out of injuries suffered without the territorial limits of this State in those cases where the injured employee is a resident of this State at the time of the injury and the contract of hire was made in this State, and any such employee or his dependents shall be entitled to the compensation or death benefits provided by this act.

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Deering, supra, p. 2310.

*. Chapter 586, Laws of 1917.

*. Chapter 586, Laws of 1917.

Appeal to Courts.

"Sec. 60. (a) All hearings and investigations before the commission or any member thereof, or any referee appointed thereby, shall be governed by this act and by the rules of practice and procedure adopted by the commission, and in the conduct thereof neither the commission nor any member thereof, nor any referee appointed thereby, shall be bound by the common law or statutory rules of evidence and procedure, but may make inquiry in such manner, through oral testimony and written and printed records, as is best calculated to ascertain the substantial rights of the parties and carry out justly the spirit and provisions of this act. No informality in any proceeding or in the manner of taking testimony shall invalidate any order, decision, award, rule or regulation made, approved or confirmed by the commission; nor shall any order, award, rule or regulation be invalidated because of the admission into the record, and use as proof of any fact in dispute, of any evidence not admissible under the said common law or statutory rules of evidence and procedure."

Writ of review.

Sec. 67.* (a) Within thirty days after the application for a rehearing is denied, or, if the application is granted, within thirty days after the rendition of the decision on the rehearing, any party affected thereby may apply to the Supreme Court of this State, or to the District Court of Appeal of the appellate district in which such person resides, for a writ of certiorari or review, hereinafter referred to as a writ of review, for the purpose of having the lawfulness of the original order, rule, regulation, decision or award, or the order, rules, regulation, decision or award on rehearing inquired into and determined."

*. Chapter 586, Laws of 1917.

Employers of more than 5 persons liable for compensation.

The provisions of the Alaska Workmen's Compensation Act, which may have a bearing upon this case, are as follows:

"*Be it enacted by the Legislature of the Territory of Alaska:*

Section 1. Any person, or persons, partnership, joint stock company, association or corporation employing five or more employees in connection with any business, occupation, work, employment, or industry carried on in this Territory, * * * shall be liable to pay compensation, in accordance with the schedule herein adopted, to each of his, her, their or its employees who receives a personal injury by accident arising out of and in the course of his or her employment or to the beneficiaries named herein, as the same are hereinafter designated and defined in all cases where the employee shall be so injured and such injuries shall result in his or her death, provided, the employees so injured had not, prior to the time of being so injured, given notice of his or her election to reject the provisions of this Act in the manner hereinafter provided, or having given such notice, had, prior to such time, waived the same in the manner hereinafter provided.

* * * * * * *

Act supersedes common law or other remedies.

Section 10. The right to compensation for an injury and the remedy therefor granted by this Act shall be in lieu of all rights and remedies as to such injury now existing either at common law or otherwise, and no rights or remedies, except those provided for by this Act, shall accrue to employees entitled to compensation under this Act while it is in effect; nor shall any right or remedy, except those provided for by this Act accrue to the per-

sonal or legal representative, dependents, beneficiaries under this Act, or next of kin of such employee.

* * * * * * *

Hearing.

Section 18. The Court shall upon the application of the employer or any claimant fix a date for a hearing upon the claim or claims so filed, which date shall be not less than thirty (30) days later than the date fixed in the published notice for the filing of such claims. The hearing may be continued at any time by the Court for good cause shown as in other cases. Upon the date set for hearing or at any time prior thereto, the employer or any claimant, who shall have filed his claim, as herein provided may ask for a jury to try and determine any issue or issues of fact arising upon any of the claims and answers so filed. If no jury is demanded, as above provided, a jury shall be deemed to have been waived, and the trial of all the issues raised shall proceed before the judge of the Court as in other cases. Upon a trial, whether before the Court or jury, proofs shall be offered by the claimant or claimants in support of his, her or their claims to compensation under this Act in the same manner that proof is heard and received upon the trial of other civil cases. The Court shall also hear and receive such proof as may be offered by the employer touching the right of any or all of the claimants to compensation under this Act and the fact that such employer has deposited the sum aforesaid, or the bond herein provided for, shall not be construed as an admission against such employer.

May have jury.

Evidence.

Upon such trial evidence shall be received in accordance with the rules of evidence touching any issue of fact raised as hereinbefore provided.

* * * * * * *

Appeal from judgment.

Section 22. One or more claimants may take an appeal from any judgment rendered under this Act as to such claimant or claimants, and any employer may take an appeal from any such judgment, either in whole or in part, that is to say, as to any one or more of the claimants. Such appeal shall be to the United States Circuit Court of Appeals for the Ninth Circuit, and shall be taken up on writ of error, or appeal, as may be proper, sued out and prosecuted as in other cases.

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Actions may be brought in Territory.

Section 24. Actions for the recovery of compensation due under this Act, may be brought, maintained and determined in and by the Courts of this Territory, and when so brought shall be governed by the law of procedure applicable to other actions for the recovery of money except as herein otherwise expressly provided.

Actions to be brought in judicial division where injury occurred.

Section 25. No action for the recovery of compensation hereunder shall be brought in any court holden outside of the judicial division in which the injury occurred, out of which the right to compensation arises, except in cases where service can not be had on the employer in the judicial division where the injury occurred. No action for the recovery of compensation hereunder shall in any case be brought in any court outside of the Territory of Alaska,

Exceptions.

except in cases where it is not possible to obtain service of summons upon the defendant in said Territory, and in all such cases the plaintiff must plead and prove his inability to obtain service of summons upon the defendant within the Territory of Alaska.

• • • • • • •

Agreements to waive rights by employee void, except.

Section 28. No agreement by an employee to waive his or her rights to compensation under this Act shall be valid, except as herein elsewhere provided, and no employer or employee shall exempt himself, herself or itself, except in the manner herein elsewhere provided, from the burden or waive the benefits of this Act, by any contract, agreement, rule, regulation or device and any such contract, agreement, rule, regulation or device shall be absolutely void.

* * * * * * *

Employer presumed to have elected to pay compensation.

Section 31. When five or more employees, as defined in this Act, are employed in the same general employment in connection with any business or industry carried on in this Territory, and in the usual and ordinary conduct of such operations, it shall be presumed that the employer, as defined by this Act, has elected to pay compensation according to the terms, conditions and provisions of this Act to such employees as may sustain personal injury arising out of and in the course of the employment, and in such case the employer shall be relieved from liability for a recovery of damages or other compensation for such personal injuries unless by the terms of this Act otherwise provided.

* * * * * * *

When employer rejects terms of act nevertheless liable under certain conditions.

Section 32. If such employer exercise the right to reject the terms, conditions and provisions of this Act in the manner and form by this Act provided, such employer shall not escape liability for personal injury sustained by an employee of such employer when the injury sustained arises out of and in the usual course of the employment because:

(1) The employee assumed the risks inherent to or incidental to or arising out of his or her employment; or the risks arising from the failure of the employer to provide and maintain a reasonably safe place to work, or the risks arising from the failure of the employer to furnish reasonably safe tools or appliances, or because the employer exercises reasonable care in selecting reasonably competent employees in the business;

(2) That the injury was caused by the negligence of a co-employee;

(3) That the employee was negligent, unless and except it shall appear that such negligence was wilful and with intent to cause the injury; or the result of intoxication on the part of the injured party;

Burden of proof on employer when act rejected by him.

(4) n actions by an employee against an employer for personal injury sustained arising out of and in the course of the employment where the employer has elected to reject the provisions of this Act, it shall be presumed that the injury to the employee was the first result growing out of the negligence of the employer; and that such negligence was the proximate cause of the injury; and in such case the burden of proof shall rest upon the employer to rebut the presumption of negligence.

When notice not given this act to be part of contract for hire.

Section 35. Where the employer and employee have not given notice of an election to reject the terms of this Act, this Act shall constitute a part of every contract of hire, express or implied, and the same shall be construed as an agreement on the part of the employer to pay, and on the part of the employee to accept compensation in the manner as by this Act provided for all personal injuries sustained, arising out of and in the course of employment.

Section 41. Wherever the term 'employer' is used in this Act, reference is had to any person or persons, partnership, joint stock company, association or corporation employing five or more employees in connection with any business or industry coming within the scope of this Act and carried on in this Territory and whenever the term 'employee' is used in this Act reference is had to an employee employed by an employer as above defined." Definition of terms.

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CHARLES ELMORE

In the Supreme Court
OF THE
United States

OCTOBER TERM, 1934

No. 465

ALASKA PACKERS ASSOCIATION (a corporation),
Appellant,

vs.

INDUSTRIAL ACCIDENT COMMISSION OF THE STATE OF CALIFORNIA and JUAN PALMA,
Appellees.

APPELLANT'S REPLY BRIEF.

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APPELLANT'S REPLY BRIEF.

The issues here clearly appear in the opinion of the California Supreme Court (R. 66-77) and those issues should not be confused by cases that are not apposite or by conditions that do not obtain.

This court determines for itself whether, within the meaning of the constitutional provisions invoked, the results of the decision appealed from constitute a denial of full faith and credit to the Workmen's Compensation Act